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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

Local Finance Corporation
Local Finance Corporation of South Marion
Local Finance Corporation of Elkhart
Local Finance Corporation of Gas City
Local Finance Corporation of Rushville
Local Finance Corporation of Danville
Local Finance, Inc.
Local Finance Co., Inc., of Gary
Local Finance Company, Inc.,

Petitioners

v.

Commissioner of Internal Revenue

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE SEVENTH CIRCUIT

and

RESPONSE TO THE COMMISSIONER'S PROTECTIVE PETITION FOR WRIT OF CERTIORARI

in

Commissioner of Internal Revenue,

Petitioner,

v.

Guardian Agency, Inc. and
Beneficial Insurance Agency, Inc.

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PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Petitioners pray that a writ of certiorari issue to review the judgments of the Court of Appeals for the Seventh Circuit affirming decisions of the Tax Court of the United States upholding income tax deficiencies in the aggregate sum of $418,977.31 determined by the Commissioner of Internal Revenue for the calendar years 1958 through 1962.

OPINIONS BELOW

The opinions of the Court of Appeals and of the Tax Court are reported at 407 F.2d 629 and 48 T.C. 773. They are printed as Appendix A and Appendix C, respectively, of the Commissioner's protective petition for writ of certiorari in the related cases involving Guardian Agency, Inc. and Beneficial Insurance Agency, Inc. Appendix references in this petition are to those Appendices, unless otherwise indicated.

JURISDICTION

The judgments of the Court of Appeals were dated and entered on February 28, 1969. A petition for rehearing was denied on April 9, 1969. As a result of orders signed by Mr. Justice Marshall on June 27 and August 1, 1969, the time within which to petition for certiorari was extended to and including September 6, 1969.

This Court has jurisdiction to review the judgments of the Court of Appeals for the Seventh Circuit by writ of certiorari under Section 7482(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 7482 (a)) and 28 U.S.C. § 1254(1).

QUESTION PRESENTED

Whether, because the petitioning loan companies handled the clerical details involved in selling and servicing credit life insurance on their borrowers and were in a position to select the insurance carrier, they can be taxed (under Sections 61 or 482 of the Internal Revenue Code) on (1) commissions paid by the carrier to related insurance agencies or (2) premiums paid by the carrier to a related life insurance company to reinsure the risks, where the loan companies were prohibited by state law from deriving any income from credit life insurance.

STATUTES AND REGULATIONS INVOLVED

Internal Revenue Code of 1954 (26 U.S.C.)

§ 61. GROSS INCOME DEFINED.

(a) *General Definition.* Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

(1) Compensation for services, including fees, commissions, and similar items;

* * *

§ 482. ALLOCATION OF INCOME AND DEDUCTIONS AMONG TAXPAYERS.

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary or his delegate may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses.

Treasury Regulations on Income Tax

§ 1.482-1. DETERMINATION OF THE TAXABLE INCOME OF A CONTROLLED TAXPAYER. (26 CFR § 1.482-1, added by T.D. 6595, April 13, 1962, 1962-1 Cum. Bull. 49.)

(a) *Definitions.* When used in this section—

* * *

(6) The term "true taxable income" means, in the case of a controlled taxpayer, the taxable income (or,

as the case may be, any item or element affecting taxable income) which would have resulted to the controlled taxpayer, had it in the conduct of its affairs (or, as the case may be, in the particular contract, transaction, arrangement, or other act) dealt with the other member or members of the group at arm's length. It does not mean the income, the deductions, the credits, the allowances, or the item or element of income, deductions, credits, or allowances, resulting to the controlled taxpayer by reason of the particular contract, transaction, or arrangement, the controlled taxpayer, or the interests controlling it, chose to make (even though such contract, transaction, or arrangement be legally binding upon the parties thereto).

(b) *Scope and purpose.*—(1) The purpose of section 482 is to place a controlled taxpayer on a tax parity with an uncontrolled taxpayer, by determining, according to the standard of an uncontrolled taxpayer, the true taxable income from the property and business of a controlled taxpayer. The interests controlling a group of controlled taxpayers are assumed to have complete power to cause each controlled taxpayer so to conduct its affairs that its transactions and accounting records truly reflect the taxable income from the property and business of each of the controlled taxpayers. If, however, this has not been done, and the taxable incomes are thereby understated, the district director shall intervene, and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income, deductions, credits, or allowances, or of any item or element affecting taxable income, between or among the controlled taxpayers constituting the group, shall determine the true taxable income of each controlled taxpayer. The standard to be applied in every case is that of an uncontrolled taxpayer dealing at arm's length with another uncontrolled taxpayer.

* * *

(c) *Application.*—Transactions between one controlled taxpayer and another will be subjected to spe-

cial scrutiny to ascertain whether the common control is being used to reduce, avoid, or escape taxes. In determining the true taxable income of a controlled taxpayer, the district director is not restricted to the case of improper accounting, to the case of a fraudulent, colorable, or sham transaction, or to the case of a device designed to reduce or avoid tax by shifting or distorting income, deductions, credits, or allowances. The authority to determine true taxable income extends to any case in which either by inadvertence or design the taxable income, in whole or in part, of a controlled taxpayer, is other than it would have been had the taxpayer in the conduct of his affairs been an uncontrolled taxpayer dealing at arm's length with another uncontrolled taxpayer.

STATEMENT

The Undisputed Facts

The basic facts, which are undisputed, are taken from the Tax Court's findings of fact. (App. C, pp. 22 et seq.)

Petitioners, Local Finance Corporation and eight wholly owned subsidiaries, are engaged in the small loan business in Indiana.

Since 1936, the loan companies have made available to their customers credit life insurance, which pays off the debt in case the borrower dies during the term of the loan. When a customer elected to take coverage, the necessary insurance paper work was done by the loan company's employees simultaneously with the preparation of the loan papers. Weekly lists of insurance policies issued and premiums received from customers were sent to Guardian Agency, Inc. and Beneficial Insurance Agency, Inc., whose stock was owned by persons who owned over 70% of the stock of the loan companies. The insurance agencies, in turn, submitted monthly reports and premiums to an inde-

pendent life insurance underwriter (Old Republic Life Insurance Company).

The annual cost of servicing credit life insurance was about $12,000 to the loan companies and about $2,200 to the insurance agencies.

Borrowers paid the going premium for credit life insurance in Indiana ($1 per $100 of insurance), a rate which was sufficient to allow insurance underwriters to pay acquisition costs. However, the Indiana Small Loan Act prohibited loan companies from receiving anything other than the charges permitted by the statute. In order to avoid penalties for violating the Small Loan Act (which included fines and imprisonment, forfeiture of the right to collect both principal and interest, and revocation of small loan license), the loan companies consistently refused to accept any compensation for handling credit life insurance. Nevertheless, the loan companies benefited from offering credit life insurance: it constituted an added attraction to customers (which competitors were also offering), provided for repayment of insured loans in case of death, and improved public relations by eliminating demands for payment upon the families of deceased borrowers.

Prior to July 1, 1958, insurance commissions were, for a period of time, paid by Old Republic directly to the insurance agencies. Later, commissions were paid to the insurance agencies indirectly through Donald Miller, an officer of the insurance agencies, as well as of the loan companies. Miller was Old Republic's agent, but endorsed his commission checks over to the insurance agencies.[1] This ar-

1. The Commissioner's protective petition for writ of certiorari in the *Guardian* and *Beneficial* cases erroneously states (p. 3) that the independent insurance carrier at first "paid Local Finance" a commission and that, subsequently, "Local Finance assigned the Commission income to Guardian." (See App. A, pp. 9-10; App. C, pp. 25-29.)

rangement was designed to comply with Indiana insurance law, which prohibited the payment of life insurance commissions to corporate insurance agents. Subsequently, the Indiana insurance department ruled that such indirect commission payments were equally in violation of the insurance law and Old Republic became concerned over the possibility of losing its Indiana license. Consequently, an entirely new arrangement was instituted as of July 1, 1958.

A life insurance company (Grand National Life Insurance Company) was formed and persons who owned 98% of Guardian's stock subscribed for 99% of Grand National's stock. Grand National entered into a reinsurance treaty with Old Republic and assumed all of the insurance risk in return for 90.5% of the premiums paid to Old Republic by the loan companies' borrowers. Neither Old Republic nor Grand National paid any commissions on this insurance.

The Commissioner of Internal Revenue attributed to the loan companies additional income, in the form of insurance commissions, equal to 50% of the premiums collected during 1958 through 1962. For the period January 1 through June 30, 1958, the amounts allocated to the loan companies were out of commission income which had been received and reported for tax purposes by the insurance agencies, Guardian and Beneficial. For the remaining period (July 1, 1958 through December 31, 1962), the allocation was of income which had been received as insurance premiums by Grand National and reported by it for tax purposes.[2]

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2. Alternatively, the Commissioner allocated 50% of premiums for this period to the insurance agencies. It is this alternative allocation which is involved in the Commissioner's protective petition for certiorari.

The Tax Court Opinions

A divided Tax Court upheld the Commissioner's allocation of income to the loan companies and denied his alternative allocation to the insurance agencies.

The majority opinion found that Grand National "was a bona fide insurance company, that it did assume liability for reinsurance of the policies written by [Old] Republic, and that it was entitled to compensation for assuming such reinsurance risk." (App. C, p. 50.) Nevertheless, the majority concluded that it was the loan companies that "performed all the services in connection with the sale and servicing of the insurance," that it was they who "earned, and controlled the disposition of, the commission income," and that they had exercised "their power to dispose of such income by having Miller assign it to Guardian and Beneficial" and, after July 1, 1958, by having it paid by Old Republic to Grand National as reinsurance premiums. (App. C, pp. 46-48.) This, it was held, constituted a basis for taxing to the finance companies income which they had not received—and could not lawfully receive. In so holding, the majority relied principally on Section 61 of the Code, as they conceived it to have been interpreted by this Court in such cases as *Lucas* v. *Earl,* 281 U.S. 111 (1930) and *Helvering* v. *Horst,* 311 U.S. 112 (1940). They apparently considered Section 482 to be only a vehicle for the application of the general principles evolved in the Section 61 cases to situations involving commonly controlled business entities. (App. C, p. 46.)

Judge Tannenwald (Judge Dawson, agreeing) concurred with the majority result on the ground that the finance companies had performed selling and servicing functions for which they had not been compensated. He saw no purpose in "entering the mare's nest of the decided cases"

under Section 61 and placed his reliance solely on the broad discretion granted to the Commissioner in Section 482. (App. C, p. 63.)

Chief Judge Drennen dissented on the ground that the majority decision could not be squared with precedent. (App. C, p. 63.)

Judge Fay also dissented (App. C, p. 64) because: (1) the majority opinion is contrary to existing case law and an unwarranted application of the statute, (2) the minimal services performed by the loan companies, costing about $60,000 during the five years involved, did not justify the Commissioner's allocation (over $600,000 of income), and (3) the majority was really attempting to vitiate the effect of the partial tax deferral granted by the Internal Revenue Code to life insurance companies—a matter for legislative, not judicial, concern. He pointed out that, despite repeated attacks by the Commissioner, this is the first time a court has taxed a lending institution on income from the sale of insurance to its customers where some other bona fide entity had in fact received the income and the lending institution was prohibited by law from receiving it.

The Court of Appeals Opinion

The Seventh Circuit affirmed the Tax Court, relying heavily on the broad discretionary power to allocate income among related entities granted to the Commissioner in Section 482.

The court held that allocation of income under Section 482 turns on who actually earned the income and that the Commissioner's allocation merely compensated the loan companies for the selling and processing services performed by their employees, which, however minimal, were the *sine qua non* of the credit insurance business.

The court rejected the argument that the loan companies cannot be taxed on income they did not—and could not lawfully—receive. In reaching that conclusion, it held that "the criteria of what constitutes income under Section 61 and the appropriateness of an allocation under Section 482 are matters of federal law" (citing *Burnet* v. *Harmel*, 287 U.S. 103 (1932). The federal law relied on by the court consisted of two lines of cases which have held that, under certain circumstances, income may be taxed to one who did not actually receive it (e.g., *Lucas* v. *Earl*, 281 U.S. 111 (1930)) and that one may be taxed on income actually—though unlawfully—received (e.g., *James* v. *United States*, 366 U.S. 213 (1961). (App. A, pp. 14-15.)

REASONS FOR GRANTING THE WRIT

I. The Courts Below Have Misinterpreted and Misapplied This Court's Section 61 Decisions

While the courts below appear to rely primarily on the Commissioner's broad discretionary power to allocate income under Section 482 of the Code, it is apparent that they determined the propriety of the exercise of that power in light of this Court's decisions that income may sometimes be taxed to one who does not actually receive it—the so-called Section 61 assignment of income cases. In so doing, they failed to grasp the rationale of those decisions and ignored the carefully articulated limitation on the doctrine, *viz.*, that the taxpayer must have the legal right to take the income for himself.

Lucas v. *Earl*, 281 U.S. 111 (1930), does indeed hold that the burden of taxation cannot be shifted by a breadwinner to his wife through an anticipatory assignment of his income. But in *Poe* v. *Seaborn*, 282 U.S. 101, 117 (1930), the Court distinguished *Earl* and upheld the right of a wife to file a separate return, treating one-half of the husband's earnings as her separate property under Washington community property law:

> "The very assignment in that case [*Earl*] was bottomed on the fact that the earnings would be the husband's property, else there would have been nothing on which it could operate. That case presents quite a different question from this, because here, by law, the earnings are never the property of the husband, but that of the community."

Thus, the Court specifically recognized the taxpayer's inability to take the income for himself because of a state-imposed, rather than a self-created, disability.

The assignment of income cases decided after *Earl* have consistently held that it is the taxpayer's ability to take the income for himself that justifies taxing him. In *Corliss* v. *Bowers,* 281 U.S. 376, 378 (1930), a husband was taxed on the income of a revocable trust established for his wife, but only because—

> "**** income that is subject to a man's *unfettered command* and that he is *free to enjoy* at his *own option* may be taxed to him as his income, whether he sees fit to enjoy it or not." (Emphasis supplied.)

In *Helvering* v. *Horst,* 311 U.S. 112, 119 (1940), a father was taxed on bond interest represented by a coupon clipped and given to his son prior to its maturity because he was "*entitled to receive it*" and had exercised his "power to dispose of it in procuring satisfaction which he would otherwise procure only by the use of the money when received." (Emphasis supplied.)

And in *Harrison* v. *Schaffner,* 312 U.S. 579, 582 (1941), a mother was taxed on future trust income which she, as beneficiary, had assigned to her children because she was "vested with the right to receive income" and, by exercising her command over the income, enjoyed its benefit.

No decision of this Court deviates from the concept that it is the exercise of the taxpayer's option *either* to take the income for himself *or* to divert it to another that justifies the imposition of the tax. This Court has yet to hold that someone can be taxed on income which he did not receive and which he could never become entitled to receive.

Moreover, until the decisions of the courts below in this case, the lower courts have recognized the importance of legal impediments to the receipt of income and have refused to attribute income to taxpayers who "did not receive and [were] not entitled to receive" it. *Bear Valley*

Mutual Water Co. v. *Riddell,* 283 F. Supp. 949, 955 (C. D. Calif. 1968). In *Teschner* v. *Commissioner,* 38 T.C. 1003 (1962), the Tax Court itself refused to tax a father who, disqualified by contest rules from receiving a prize, submitted a winning entry in his daughter's name:

> "Where an individual neither receives nor has the right to receive income, he is not the taxable individual within the contemplation of the statute. There is no basis in the statute or in the decided cases for a construction at variance with this fundamental rule." 38 T.C. at 1009.

The Tax Court flatly rejected the Commissioner's broad contention—now approved in the decisions below—that the touchstone of taxation is whether the taxpayer earned or generated the income through his own efforts. The court recognized that this was not enough. The taxpayer must, in addition, *either* have received the income *or* have had the right to do so. 38 T.C. at 1007.

Like the community property law in *Poe* v. *Seaborn,* 282 U.S. 101 (1930), and the contest rules in *Teschner,* Indiana law precluded the loan companies from becoming entitled to receive the income attributed to them by the Commissioner. This function of state law in no way conflicts with the supremacy of federal tax law, as the courts below assumed. There is no attempt here to superimpose state property classifications on federal tax laws, as there was in *Burnet* v. *Harmel,* 287 U.S. 103 (1932). Rather, this is a case where state law has determined that the taxpayer can have no "legal interests and rights" upon which federal tax law may operate. *Morgan* v. *Commissioner,* 309 U.S. 78, 80-81 (1940). Nor is there any attempt here to derogate from this Court's holding that *actual*—though unlawful—receipt of income, by an embezzler for example, is a basis for taxation. *James* v. *United States,* 366 U.S. 213 (1961).

One who, like these petitioners, has never had either possession or the right to possess income does not have the necessary "command" over income to justify taxation. He is not "free to enjoy at his own option" income the receipt of which would entail a violation of state law. To hold otherwise would result in the total disregard of petitioners' attempts to structure their business affairs in compliance with state law. In addition, it would virtually force taxpayers to violate state law and take the income attributed to them for tax purposes in order to pay the tax on such income. Cf. *Eisner* v. *Macomber,* 252 U.S. 189, 213 (1920).

II. The Use of Section 482 to Allocate Income Which Cannot Lawfully be Received Raises an Important Question of Federal Tax Law

Section 482 authorizes the Commissioner to allocate income and deductions among commonly controlled business entities if he determines that such allocation is necessary in order to prevent "evasion of taxes or clearly to reflect the income" of any of such entities. This provision, which first appeared in its present form in the Revenue Act of 1928, was designed—

> "*** to prevent evasion (by the shifting of profits, the making of fictitious sales, and other methods frequently adopted for the purpose of 'milking'), and in order clearly to reflect their true tax liability." H. Rep. No. 2, 70th Cong., p. 16 (1939-1 Pt. 2 Cum. Bull. 395).

The test for determining whether an allocation is warranted under Section 482 is whether—

> "*** the taxable income, in whole or in part, of a controlled taxpayer, is other than it would have been had the taxpayer in the conduct of his affairs been an uncontrolled taxpayer dealing at arm's length with another uncontrolled taxpayer." Reg. § 1.482-1 (c), *supra,* p. 5.

The way in which the credit insurance business was handled in this case (payment of commissions to the insurance agencies prior to July 1, 1958 and reinsurance with Grand National thereafter) did not result in any "milking" of the loan companies or "shifting of profits" from them to related entities because the loan companies could not lawfully take any profit from the credit insurance business and there is no basis for assuming that, absent the commission and reinsurance arrangements, they would have taken income in violation of state law. Contrary to the Court of Appeal's assumption (App. A, p. 16), the Tax Court made no finding that, had it not been for Grand National, commissions would have been paid to Local Finance. Applying the test propounded by the Regulation, the taxable income of the loan companies would not have been any greater even if the insurance agencies and Grand National were not related entities and the loan companies had dealt with them at arm's length.

It may well be that, if the insurance agencies and Grand National had not been related parties, the commission and reinsurance arrangements would never have been made. But this does not justify an attribution to the loan companies of income which they could not have lawfully received in any event. The Court of Appeals clearly misunderstood the purpose of the arm's length test when it said—

> "the Commissioner is empowered *** to determine whether [transactions between commonly controlled entities] are such as would have been consummated in an arm's length negotiation between strangers and to make an allocation when they fail to meet that standard." (App. A, p. 11.)

The question is not whether the transactions are the same as would have been entered into between strangers, but whether the income of the controlled entity to which the

income is allocated would have been any different if it had been dealing at arm's length with a stranger. Only then is the Commissioner authorized to reallocate income. Here, there is no basis for assuming that the loan companies would have received any income from credit life insurance regardless of how or with whom the mechanics might have been handled.

Likewise, the courts below misunderstood the import of the only precedent involving the application of Section 482 where the taxpayer is precluded by law from receiving the income sought to be allocated. *L. E. Shunk Latex Products, Inc.* v. *Commissioner*, 18 T.C. 940 (1952), involved the classic economic situation which Section 482 was designed to prevent: the price for rubber prophylactics charged by the manufacturer to its commonly controlled wholesaler was lower than current market conditions warranted. The price had been established in 1937 and never changed in a sharply rising market. The manufacturer's failure to increase prices shifted profits to its related wholesaler, which took advantage of the rising market to increase its prices to retailers. Nevertheless, the Tax Court refused to allow the Commissioner to allocate income to the manufacturer because the applicable OPA regulation had frozen the manufacturer's price as of December 1, 1941 and it could not have lawfully charged more—whether to its own wholesaler or to an independent wholesaler.

The Court of Appeals sought to distinguish *Shunk* on the ground that—

> "The OPA regulations in *Shunk* prevented the *generation* of the income which the Commissioner sought to allocate; here Indiana law merely prohibited the *receipt* of the commission income by the finance companies." (App. A, pp. 17-18; emphasis supplied.)

But no such distinction is tenable. The income which the Commissioner sought to allocate was the income generated by the wholesaler's ability to purchase from its affiliated manufacturer at less than market. The Tax Court refused to tax that income to the manufacturer only because the OPA regulations had the effect of—

> "* * * prohibiting petitioners from *receiving* the very income sought to be attributed to them. We think that the Commissioner had no authority to attribute to petitioners income which they could not have *received.*" (18 T.C. at 961; emphasis supplied.)

In truth, there is no substantive difference between the situation in *Shunk* and the situation we have in this case. By disregarding the OPA ceiling the manufacturer in *Shunk* could have charged more for its product. Likewise, the loan companies here might have commanded compensation for selling and servicing credit life insurance had they been willing to violate state law. In both instances, however, legal prohibitions deprived the taxpayers of the option to realize the economic benefit otherwise available to them. The intervention of the OPA regulation in *Shunk* and the Indiana Small Loan Act here broke the causal relationship between the common control of the related entities and what otherwise would have been the most natural economic consequences. Hence, there is nothing on which Section 482 can operate.

This court has never had occasion to consider and interpret Section 482—perhaps because, although Section 482 and its predecessors have been a part of the income tax law for over 40 years, the Commissioner has only rather recently begun to use the provision vigorously. See Spaeth, *Section 482—Past and Future,* 47 Taxes 45 (1969); Seieroe and Gerber, *Section 482—Still Growing at the Age*

of 50, 46 Taxes 893 (1968) (discussing and criticizing the novel result in this case); Asbill, Jr., *The Application of Section 482 to Domestic Taxpayers—Current Status and Trends,* 19 So. Calif. Tax Institute 673, 673-674, 729 (1967); Comment, *New Importance for Section 482 of the Internal Revenue Code,* 7 W & M L. Rev. 345 (1966).

It has been held that, under Section 482, the Commissioner's determination that an allocation is necessary is subject to review only if it is unreasonable, arbitrary, or capricious. *Grenada Industries, Inc.* v. *Commissioner,* 17 T.C. 231 (1951), *aff'd,* 202 F.2d 873 (5th Cir. 1953), *cert. denied,* 346 U.S. 819 (1953). The taxpayer's burden of proof under this standard is significantly greater than under the ordinary standard, where proof of mere error is sufficient. If, as the Tax Court majority says (App. C, p. 46), Section 482 is merely a specific vehicle for applying Section 61 principles in situations involving commonly controlled business entities, Section 482 is surplusage. Moreover, there could develop a curious and irrational dichotomy between the functions of Section 61 and Section 482: where family income-splitting arrangements are involved, the taxpayer's burden would be lighter than where arrangements between commonly controlled business entities are involved. There is, therefore, urgent need for this Court to provide guidance to the Commissioner and the courts on the relationship between Sections 61 and 482 while the Commissioner's use of his new-found power is still in the development stage. As interpreted and applied by the two courts below, Section 482 confers upon the Commissioner protean power to restructure business transactions involving related business entities—a power that transcends the limitations imposed by this Court in the Section 61 cases.

The importance of this Court's reviewing the use of Section 482 to allocate income which cannot be lawfully re-

ceived is illustrated by the fact that, in addition to these cases, there are 1,399 cases pending in the lower courts involving the allocation of $232,470,659 of income from insurance companies to related loan companies, insurance agencies, or their stockholders. Pertinent information concerning those cases, many of which involve alternative allocations of the same income, is contained in the Appendix to this petition.

III. The Result Reached by the Courts Below Conflicts With the Treatment Accorded Comparable Arrangements in Other Cases

Over the years, corporations such as banks, finance companies, and automobile dealers, precluded by state law from receiving compensation from the sale of insurance to their customers, have devised different methods of handling their affairs so as to allow related parties to profit where they themselves could not. Using as his pivotal argument the fact that employees of these businesses sold the insurance and handled the necessary paper work, the Commissioner has tried every weapon in his arsenal to restructure these transactions. Until the decisions in this case, the lower courts have rebuffed the Commissioner at every turn, recognizing the problem posed by state law and the right of taxpayers to structure their business affairs as they choose,[3] regardless of tax savings.[4]

The most common arrangement was for the individual owner of the corporation to take out an insurance agency license and receive insurance commissions personally. The courts readily accepted such arrangements where the pres-

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3. *Moline Properties, Inc.* v. *Commissioner,* 319 U.S. 436 (1943); *National Carbide Corp.* v. *Commissioner,* 336 U.S. 422 (1949).

4. *Gregory* v. *Helvering,* 293 U.S. 465 (1935).

idents and principal shareholders of family automobile businesses acted as casualty insurance agents—even though the actual work may have been done by the employees of the corporation without additional compensation. *Ray Waits Motors, Inc.* v. *United States,* 145 F. Supp. 269 (E.D. S.Car. 1956); *Moke Epstein, Inc.* v. *Commissioner,* 29 T.C. 1005 (1958); *Gaddy Motor Company, Inc.* v. *Commissioner,* T.C. Memo. 1958—189 (17 T.C.M. 944); *Jaeger Motor Car Co.* v. *Commissioner,* T.C. Memo. 1958—223 (17 T.C.M. 1098), *aff'd,* 284 F.2d 127 (7th Cir. 1960), *cert. denied,* 365 U.S. 860 (1961).

Similarly, in the field of credit life insurance such individual or partnership insurance agencies have been upheld and no attribution of commission income to the related financial institutions has been permitted, despite various arguments that, under Section 61 of the Code, the insurance agencies should be disregarded as a "sham," that the income was really earned by the corporation whose employees sold and serviced the insurance, and that Section 482 authorized a reallocation of income. *Campbell County State Bank, Inc.* v. *Commissioner,* 37 T.C. 430 (1961), *rev'd on other grounds,* 311 F.2d 374 (8th Cir. 1963); *Paramount Finance Co.* v. *United States,* 304 F.2d 460 (Ct. Cl. 1962); *Bank of Kimball* v. *United States,* 200 F. Supp. 638 (S.D. 1962); *Nichols Loan Corp.* v. *Commissioner,* T.C. Memo. 1962—149 (21 T.C.M. 805), *rev'd on other grounds,* 321 F.2d 905 (7th Cir. 1963);[5] *First Security Bank* v. *United States,* 213 F. Supp. 362 (Mont. 1963), *aff'd,* 334 F.2d 120 (9th Cir. 1964); *First State Bank* v. *United States,* (D.C. S.D., decided June 25, 1962; unofficially reported at 62-2 U.S.T.C. ¶ 9613).

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5. The court, in *Nichols,* also refused to disallow to the finance company, as an ordinary and necessary business expense deduction, the cost of selling and servicing the insurance program because the cost was minimal and the insurance program was beneficial to the loan business.

Another technique, developed subsequently, was to eliminate the insurance agency "middle man" and form a separate insurance company to arrange with the unrelated insurance carrier for reinsurance of the mortality risk. Although this meant giving up guaranteed commissions, there was a possibility of a greater profit through the assumption of an underwriting risk. Moreover, because of the fact that much of the premiums must be set aside to fund the risk, insurance companies are taxed differently—often more advantageously—than ordinary corporations. In *Alinco Life Insurance Company* v. *United States,* 373 F.2d 336 (Ct. Cl. 1967), the Commissioner attacked this arrangement, contending that, under Section 269, the reinsurance company was not entitled to be taxed as a life insurance company under Section 801 *et seq.* of the Code because it had been formed primarily to avoid taxes by securing the benefit of life insurance status. The Court of Claims, however, held that it was not tax avoidance to structure business affairs in response to the requirements of state law and that there could be no objection to arranging one's affairs to take advantage of the treatment afforded to life insurers by the Code.

The courts below have swept aside all of these precedents in order to tax the loan companies on insurance commissions received by Guardian and Beneficial and reinsurance premiums received by Grand National, by cross-fertilizing misinterpretations of the anticipatory assignment of income doctrine under Section 61 and the purpose of allocations of income under Section 482.

IV. The Heart of the Matter: The Exercise of Reciprocity Power Is Not Subject to Income Taxation

The heart of the matter is that while the loan companies could not take any compensation from credit life insurance,

they were in a position to arrange for a related corporation (owned by persons who owned about 70% of the stock of the loan companies) to perform a function for which the unrelated insurance carrier was willing and *able* to pay compensation—at first, for acting as insurance agent and placing the business with the unrelated insurance company and, later, for reinsuring the risks of the unrelated insurance company. The power to place another person (even though closely related) in a position to perform such a function has never before been considered the touchstone of taxability—even though the effort required to perform the function is minimal in relationship to the compensation paid.[6] *Crowley* v. *Commissioner*, 34 T.C. 333 (1960); *Alabama-Georgia Syrup Co.* v. *Commissioner*, 36 T.C. 747 (1961) *rev'd on other grounds, sub. nom. Whitfield* v. *Commissioner*, 311 F.2d 640 (5th Cir. 1962); *Nat Harrison Associates, Inc.* v. *Commissioner*, 42 T.C. 601 (1964).

CONCLUSION

This case follows in the tradition of the cases in which this Court has evolved the role and defined the limits of Section 61: cases involving assignments of income, family income-splitting, transactions lacking business purpose, substance versus form, family partnerships, family trusts, and illegal income actually received. It draws together, for consideration in a business reciprocity context, some of the most difficult and fundamental issues in federal tax law: what are the economic and legal bases for taxing income to someone other than the recipient under Section 61?; what

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6. What reason is there for assuming, for example, that the insurance risk undertaken by Grand National is less significant than the paper work done by employees of the loan companies?

is the extent of the Commissioner's power under Section 482 to restructure bona fide business transactions undertaken in compliance with state law?; what are the limitations on the right of taxpayers to structure their business transactions in the most advantageous way for tax purposes?; and what is the relationship between Section 61 and Section 482? These questions go to the very heart of income tax theory concerning what is taxable income and to whom it shall be taxed. This court should exercise its power of review to correct the lower courts' misinterpretation of the role of state law in the resolution of these questions.[7]

Respectfully submitted,

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7. If certiorari is granted, petitioners agree that the Court should also grant the Commissioner's protective petition for certiorari in the *Guardian* and *Beneficial* cases, so that the Court will have before it for consideration both of the Commissioner's alternative theories of income attribution—primarily from the insurance agencies and the reinsurance company to the loan companies and secondarily from the reinsurance company to the insurance agencies.

APPENDIX

TABLE OF PENDING CASES INVOLVING ALLOCATION OF INCOME FROM INSURANCE COMPANIES TO RELATED LOAN COMPANIES, INSURANCE AGENCIES, OR STOCKHOLDERS

Cases Pending in the Tax Court:

Docket No.	Amount Allocated	Docket No.	Amount Allocated
1190-63	$ 361,276	1664-65	$ 154,239
1216-63	405,220	1665-65	9,269
1294-63	36,639,159	1666-65	23,621
4680-64	1,056,047	1667-65	1,145
4681-64	291,417	1668-65	6,823
4682-64	221,315	1669-65	3,327
4683-64	32,347	1670-65	35,252
4684-64	101,358	1671-65	180,013
4685-64	74,118	1672-65	19,395
4686-64	43,840	1673-65	8,203
1649-65	135,042	1674-65	5,723
1650-65	202,010	1675-65	30,331
1651-65	6,483	1676-65	7,442
1652-65	853	1677-65	267,031
1653-65	324,064	1678-65	22,532
1655-65	609,461	1679-65	16,185
1656-65	100,491	1680-65	138,723
1657-65	66,903	1681-65	73,964
1658-65	13,225	1682-65	17,845
1659-65	3,854	1683-65	11,202
1660-65	7,129	1684-65	7,573
1661-65	2,926	1685-65	12,412
1662-65	43,681	1686-65	51,470
1663-65	1,951	1687-65	18,781

Docket No.	Amount Allocated
1688-65	$ 8,981
1689-65	18,335
1690-65	8,210
1691-65	1,842
1692-65	12,321
1930-65	56,261
1931-65	155,035
1932-65	30,744
1933-65	47,908
1934-65	624,127
1965-65	2,138
1966-65	1,104,072
1967-65	370,770
1968-65	40,681
1969-65	18,002
1970-65	141,723
1975-65	1,819,742
1976-65	50,518
1977-65	4,724
1978-65	694,830
1979-65	335,392
1980-65	2,075
1981-65	197,656
1982-65	8,482
1983-65	347,704
2019-65	139,146
2020-65	7,696
2021-65	97,163
2022-65	873
2023-65	21,523
2024-65	185,970
2025-65	120,098
2026-65	2,704
2027-65	7,565,745
2033-65	72,741
2034-65	200,184
2035-65	1,179,757
2036-65	$ 361,941
2037-65	708,098
2038-65	229,473
2039-65	12,884
2040-65	215,344
2041-65	155,419
2099-65	630,645
5440-65	32,381,882
5500-65	19,107,529
6617-65	10,328,356
6814-65	1,795,314
6856-65	10,459
6858-65	13,030
6895-65	242,079
6926-65	5,839
6996-65	2,502,195
7011-65	1,062,031
2652-66	1,908,107
2653-66	1,739,473
2654-66	52,462
2655-66	124,574
2656-66	5,890
2657-66	73,439
2658-66	19,417
2659-66	13,376
2660-66	158,554
2661-66	29,453
2662-66	48,828
2663-66	37,354
2664-66	92,026
2665-66	5,298
2666-66	3,141
2667-66	33,062
2668-66	15,749
2669-66	70,831
2670-66	1,943
2671-66	8,576

Docket No.	Amount Allocated
2672-66	$ 21,371
2673-66	9,612
2674-66	17,378
2675-66	10,895
2676-66	35,520
2677-66	8,736
2678-66	38,995
2679-66	6,279
2680-66	11,329
2681-66	63,285
2682-66	15,963
2683-66	19,983
2684-66	12,399
2685-66	77,650
2686-66	8,375
2687-66	31,359
2688-66	85,800
2689-66	57,269
2690-66	31,920
2691-66	122,214
2692-66	156,758
2693-66	8,505
2694-66	23,497
2695-66	359,562
2696-66	135,984
2697-66	976
2699-66	67,408
2700-66	279,449
2701-66	463,417
2702-66	58,581
2703-66	4,816
2704-66	18,667
2705-66	99,424
2706-66	4,748
2707-66	167
2708-66	48,478
2709-66	51,859
2710-66	$ 22,203
2711-66	56,950
2712-66	8,904,481
2713-66	102,736
2767-66	18,254
2768-66	133,553
2769-66	83,272
2770-66	289,835
2771-66	264,756
2772-66	135,747
2773-66	2,283
2774-66	36,701
2775-66	76,277
2776-66	403,156
2777-66	39,841
2778-66	131,205
2779-66	21,263
2780-66	27,609
2781-66	29,779
2782-66	15,762
2783-66	18,567
2784-66	17,559
2785-66	9,911
2786-66	16,286
2787-66	13,027
2788-66	19,076
2789-66	76,675
2790-66	4,610
2791-66	6,240
2793-66	55,855
2794-66	22,681
2822-66	182,817
2823-66	19,293
2824-66	141,570
2825-66	303,274
2826-66	37,419
2827-66	12,288

Docket No.	Amount Allocated
2853-66	$ 18,641
2854-66	26,704
2855-66	265,287
2857-66	15,207
2858-66	56,027
2859-66	13,692
2861-66	11,277
2862-66	73,277
2864-66	137,776
2865-66	4,119
2866-66	238,803
4993-66	17,118,117
6340-66	2,640,875
1197-67	1,047,490
1225-67	1,246,021
1226-67	1,816,714
1227-67	2,276,309
5004-67	866
5992-67	20,903
5993-67	1,400
5994-67	10,856
5995-67	3,705
5996-67	5,007
5997-67	2,150
5998-67	3,618
5999-67	1,630
6000-67	4,248
6001-67	2,693
6002-67	5,636
6003-67	2,313
6005-67	5,909
6006-67	1,834
6007-67	3,546
6008-67	9,094
6009-67	2,794
6010-67	1,986
6011-67	2,164

Docket No.	Amount Allocated
6012-67	$ 3,717
6013-67	2,521
6014-67	1,245
6015-67	2,027
6016-67	2,507
6017-67	2,415
6018-67	1,960
6019-67	564
6020-67	7,609
6021-67	2,359
6022-67	3,812
6023-67	2,861
6024-67	4,719
6025-67	2,956
6026-67	2,422
6027-67	5,591
6028-67	3,315
6029-67	3,688
6030-67	1,997
6031-67	9,793
6032-67	3,253
6033-67	1,883
6034-67	4,476
6035-67	4,101
6036-67	4,602
6037-67	713
6038-67	5,142
6039-67	991
6040-67	1,671
6041-67	3,710
6042-67	9,376
6043-67	1,972
6044-67	3,834
6045-67	3,775
6046-67	3,570
6047-67	3,536
6048-67	1,673

Docket No.	Amount Allocated	Docket No.	Amount Allocated
6049-67	$ 973	6086-67	$ 5,024
6050-67	1,930	6087-67	1,531
6051-67	3,326	6088-67	9,889
6052-67	2,980	6089-67	1,838
6053-67	1,678	6090-67	1,668
6054-67	1,310	6091-67	1,470
6055-67	2,241	6092-67	2,916
6056-67	2,785	6093-67	3,417
6057-67	6,283	6094-67	3,500
6058-67	1,946	6095-67	4,387
6059-67	15,845	6096-67	3,746
6060-67	4,854	6097-67	6,010
6061-67	2,115	6098-67	2,227
6062-67	777	6099-67	1,007
6063-67	1,649	6100-67	6,898
6064-67	5,090	6101-67	1,985
6065-67	2,078	6102-67	4,916
6066-67	4,676	6103-67	3,937
6067-67	3,042	6104-67	2,297
6068-67	4,995	6105-67	10,641
6069-67	3,861	6106-67	4,945
6070-67	2,210	6107-67	8,036
6071-67	1,359	6108-67	14,090
6072-67	4,067	6109-67	4,495
6073-67	1,730	6110-67	2,588
6074-67	3,055	6111-67	3,846
6075-67	1,197	6112-67	5,251
6076-67	952	6113-67	2,573
6077-67	4,259	6114-67	2,960
6078-67	3,731	6115-67	5,730
6079-67	12,124	6116-67	7,166
6080-67	2,214	6117-67	2,301
6081-67	4,272	6118-67	3,904
6082-67	2,968	6119-67	3,718
6083-67	1,149	6120-67	5,631
6084-67	4,109	6121-67	6,405
6085-67	2,857	6122-67	2,001

Docket No.	Amount Allocated
6123-67	$ 3,522
6124-67	1,671
6125-67	3,301
6126-67	1,165
6127-67	1,328
6128-67	3,860
6129-67	8,725
6130-67	2,567
6131-67	3,453
6132-67	4,057
6133-67	1,357
6134-67	2,688
6135-67	1,530
6136-67	2,674
6137-67	5,201
6138-67	786
6139-67	7,634
6140-67	5,553
6141-67	7,397
6142-67	2,266
6143-67	1,758
6144-67	1,015
6145-67	3,702
6146-67	2,017
6147-67	4862
6148-67	1,668
6149-67	2,894
6150-67	1,989
6151-67	1,265
6152-67	5,645
6153-67	2,939
6154-67	3,989
6155-67	1,655
6156-67	4,947
6157-67	2,695
6158-67	3,580
6159-67	7,489
6160-67	$ 10,319
6161-67	8932
6162-67	10,091
6163-67	8,778
6164-67	15,838
6165-67	5,379
6166-67	10,882
6167-67	3,435
6168-67	9,128
6169-67	104
6170-67	11,540
6171-67	10,754
6172-67	7,994
6173-67	6,596
6174-67	8,576
6175-67	3,385
6176-67	3,703
6177-67	3,922
6178-67	5,535
6179-67	8,816
6180-67	8,054
6181-67	7,749
6182-67	9,644
6183-67	5,918
6184-67	14,700
6185-67	2,444
6186-67	2,050
6187-67	4,947
6188-67	24,618
6189-67	6,814
6190-67	11,241
6191-67	2,380
6192-67	2,400
6193-67	12,642
6194-67	3,959
6195-67	8,796
6196-67	7,445

Docket No.	Amount Allocated
6197-67	$ 17,432
6198-67	3,389
6199-67	12,450
6200-67	5,086
6201-67	44,060
6202-67	10,703
6203-67	10,533
6204-67	824
6205-67	11,232
6206-67	8,205
6207-67	8,198
6208-67	11,805
6209-67	9,360
6210-67	1,666
6211-67	4,190
6212-67	6,046
6213-67	7,423
6214-67	10,392
6215-67	8,579
6216-67	2,947
6217-67	2,200
6218-67	7,179
6219-67	10,177
6220-67	7,897
6221-67	38,662
6222-67	1,899
6223-67	1,693
6224-67	7,268
6225-67	5,902
6226-67	4,927
6227-67	10,568
6228-67	3,194
6229-67	4,483
6230-67	4,618
6231-67	5,405
6232-67	25,193
6233-67	11,020

Docket No.	Amount Allocated
6234-67	$ 11,020
6235-67	4,923
6236-67	4,203
6237-67	5,135
6238-67	2,491
6239-67	1,786
6240-67	3,170
6241-67	2,395
6242-67	1,849
6243-67	2,595
6244-67	2,326
6245-67	2,234
6246-67	1,979
6247-67	1,104
6248-67	16,375
6249-67	1,019
6250-67	9,449
6251-67	10,550
6252-67	6,966
6253-67	7,516
6254-67	7,617
6255-67	2,238
6256-67	12,910
6257-67	3,555
6258-67	22,997
6259-67	16,885
6260-67	7,498
6261-67	790
6262-67	1,948
6263-67	8,582
6264-67	13,031
6265-67	5,570
6266-67	6,157
6267-67	7,128
6268-67	4,188
6269-67	4,052
6270-67	4,053

Docket No.	Amount Allocated
6271-67	$ 3,476
6272-67	4,959
6273-67	6,080
6274-67	4,729
6275-67	5,062
6276-67	30,486
6277-67	22,997
6278-67	45,270
6279-67	14,937
6280-67	14,457
6281-67	59,329
6282-67	32,549
6283-67	1,598
6284-67	336
6285-67	1,240
6286-67	1,093
6287-67	948
6288-67	401
6289-67	478
6290-67	1,002
6291-67	1,393
6292-67	3,501
6293-67	1,693
6294-67	3,451
6295-67	1,067
6296-67	1,505
6297-67	1,514
6298-67	1,644
6299-67	1,513
6300-67	3,342
6301-67	1,040
6302-67	981
6303-67	5,208
6304-67	1,901
6305-67	784
6306-67	690
6307-67	1,941
6308-67	$ 469
6309-67	1,953
6310-67	2,002
6311-67	476
6312-67	806
6313-67	846
6314-67	1,289
6315-67	2,173
6316-67	1,532
6317-67	1,421
6318-67	3,418
6319-67	581
6320-67	1,083
6321-67	670
6322-67	900
6323-67	1,695
6324-67	1,490
6325-67	1,492
6326-67	1,673
6327-67	773
6328-67	4,023
6329-67	9,332
6330-67	5,375
6331-67	2,319
6332-67	8,353
6333-67	14,126
6334-67	7,545
6335-67	12,037
6336-67	15,395
6337-67	12,118
6338-67	9,504
6339-67	7,452
6340-67	7,808
6341-67	51,024
6342-67	42,663
6343-67	35,391
6344-67	7,470

Docket No.	Amount Allocated	Docket No.	Amount Allocated
6345-67	$ 6,270	389-68	$ 18,454
6346-67	2,068	390-68	110,271
6347-67	697	391-68	78,461
6348-67	4,845	392-68	85,811
6349-67	5,148	393-68	7,005
6350-67	32,077	2334-68	321,390
6351-67	8,512	2335-68	60,340
6352-67	9,148	2336-68	9,236
6353-67	9,605	2337-68	11,422
6354-67	5,590	2338-68	29,701
6355-67	5,260	2339-68	39,651
6356-67	1,661	2340-68	14,854
6357-67	8,583	2341-68	30,383
6358-67	1,923	2342-68	16,623
6359-67	7,767	2343-68	12,306
6360-67	7,536	2344-68	24,556
6361-67	6,134	2345-68	25,646
6362-67	7,780	2346-68	13,833
6363-67	17,393	2347-68	77,567
6364-67	9,186	2348-68	1,720,579
6365-67	9,658	2349-68	87,185
6366-67	15,628	2350-68	257,389
6367-67	2,591	2351-68	257,389
6368-67	16,577	2352-68	37,435
6369-67	2,390	2353-68	37,435
6370-67	12,546	2354-68	114,803
6371-67	25,491	2355-68	114,803
6372-67	51,114	2356-68	114,803
6373-67	1,529	2357-68	78,815
6374-67	943	2358-68	248,970
6375-67	514	2359-68	1,268,994
6387-67	1,088,877	2360-68	1,268,994
384-68	756,517	2361-68	58,811
385-68	239,603	2389-68	27,744
386-68	31,964	2390-68	17,399
387-68	243,628	2391-68	7,022
388-68	82,485	2392-68	5,375

Docket No.	Amount Allocated
2393-68	$ 13,232
2394-68	16,905
2396-68	23,352
2397-68	11,467
2398-68	31,972
2399-68	21,101
2400-68	22,885
2468-68	417
2471-68	72,052
2472-68	10,459
2473-68	17,883
2479-68	78,028
2480-68	3,077
2481-68	3,077
2482-68	3,077
2483-68	3,077
2484-68	3,077
2485-68	3,077
2486-68	3,077
2487-68	3,077
2488-68	3,077
2489-68	3,077
2490-68	3,077
2491-68	3,077
2492-68	3,077
2493-68	3,077
2494-68	3,077
2495-68	3,077
2496-68	3,077
2497-68	3,077
2498-68	3,077
2499-68	3,077
2500-68	3,077
2501-68	3,077
2502-68	3,077
2503-68	3,077
2504-68	647,596
2505-68	$ 13,249
4432-68	26,278
5653-68	2,571,793
5656-68	2,148,724
5657-68	124,900
5663-68	41,808
5664-68	49,350
5665-68	74,634
5666-68	66,848
5669-68	283,160
5670-68	108,088
5671-68	29,082
5673-68	37,162
5674-68	29,238
5675-68	48,268
5676-68	15,540
5677-68	30,902
5678-68	93,170
5679-68	116,688
5680-68	25,330
5681-68	28,122
5682-68	66,256
5683-68	9,840
5684-68	13,546
5685-68	42,366
5686-68	34,724
5688-68	108,066
5689-68	93,080
5690-68	9,452
5692-68	42,638
5693-68	11,126
5694-68	37,216
5695-68	62,346
5696-68	28,384
5697-68	33,890
5698-68	30,178
5699-68	31,128

Docket No.	Amount Allocated	Docket No.	Amount Allocated
5700-68	$ 23,580	1019-69	$ 4,180
5701-68	101,726	1020-69	17,318
5702-68	49,496	1021-69	12,608
5703-68	16,944	1022-69	76,548
5704-68	32,446	1023-69	19,461
5705-68	20,852	1024-69	10,056
5708-68	104,524	1025-69	13,182
5709-68	18,148	1026-69	16,108
5710-68	20,930	1027-69	29,765
5712-68	39,894	1028-69	14,422
5713-68	33,500	1029-69	31,855
5714-68	48,692	1030-69	14,304
5715-68	7,652	1031-69	24,957
5716-68	152,804	1032-69	15,324
5717-68	21,618	1033-69	11,195
5718-68	57,590	1034-69	15,657
5719-68	27,272	1035-69	4,868
5721-68	18,392	1036-69	6,422
5722-68	37,922	1037-69	7,729
5723-68	12,454	1038-69	10,274
5724-68	229,926	1039-69	10,544
5725-68	15,100	1040-69	15,279
5726-68	18,516	1041-69	7,040
5727-68	23,026	2222-69	51,757
5728-68	15,552	2223-69	64,471
5729-68	10,686	2224-69	143,352
5733-68	254,044	2225-69	261,730
5734-68	330,310	2226-69	43,658
1010-69	24,958	2227-69	332,779
1011-69	14,370	2228-69	194,528
1012-69	17,223	2229-69	46,818
1013-69	11,101	2230-69	34,551
1014-69	8,236	2231-69	90,855
1015-69	71,723	2232-69	45,259
1016-69	12,949	2233-69	1,944
1017-69	16,859	2234-69	17,651
1018-69	13,318	2235-69	54,983

Docket No.	Amount Allocated
2236-69	$ 52,704
2237-69	28,449
2238-69	2,025
2239-69	74,297
2240-69	6,708
2241-69	37,192
2242-69	51,277
2243-69	4,730
2244-69	86,054
2245-69	6,719
2246-69	72,126
2247-69	78,430
2248-69	46,925
2249-69	87,828
2250-69	1,685
2251-69	100,124
2252-69	26,854
2253-69	9,098
2254-69	84,069
2255-69	98,131
2256-69	36,080
2257-69	92,788
2258-69	22,612
2259-69	3,393
2260-69	32,945
2261-69	29,326
2262-69	39,745
2263-69	79,764
2264-69	284,380
2265-69	66,109
2266-69	9,734
2267-69	96,576
2268-69	32,897
2269-69	25,596
2270-69	10,303
2271-69	$ 1,209
2272-69	25,940
2273-69	3,752
2274-69	8,652
2275-69	6,223
2276-69	58,113
2277-69	14,799
2278-69	5,167
2279-69	3,014
2280-69	44,878
2432-69	81,422
2434-69	261,181
2435-69	145,237
2436-69	705,050
2437-69	248,345
2438-69	192,391
2439-69	7,489
2440-69	172,391
2441-69	24,552
2442-69	417,237
2443-69	40,686
2444-69	13,771
2445-69	58,558
2446-69	255,295
2447-69	48,179
2448-69	640,377
2449-69	304,696
2450-69	277,135
2451-69	97,880
2452-69	107,059
2453-69	7,746,895
2455-69	27,368
2456-69	154,054
3105-69	17,973,301

Cases Pending in the District Court for the Southern District of Indiana:

Docket No.	Amount Allocated
IP-65-C No. 262	$481,814
IP-68-C No. 203	36,579
IP-68-C No. 204	3,023
IP-68-C No. 205	21,587
IP-68-C No. 206	215,543
IP-68-C No. 207	24,079
IP-68-C No. 208	27,017
IP-68-C No. 209	22,366
IP-68-C No. 210	4,791
IP-68-C No. 211	5,468
IP-68-C No. 212	20,565
IP-68-C No. 213	30,441
IP-68-C No. 214	27,259
IP-68-C No. 215	11,491
IP-68-C No. 216	33,744
IP-68-C No. 217	28,921
IP-68-C No. 220	12,947
IP-68-C No. 296	10,276